

ORIGINAL

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY ▶ 05 - 683 -

| | | |
|---|--|-------------------------------|
| United States District Court | | District <u>1 DELAWARE</u> |
| Name (under which you were convicted): <u>RONALD E. PROCTOR JR.</u> | | Docket or Case No.: |
| Place of Confinement: <u>DELAWARE CORRECTION INSTITUTION SHU</u> | | Prisoner No.: <u>00163150</u> |
| Petitioner (include the name under which you were convicted) <u>RONALD E. PROCTOR JR.</u> Respondent (authorized person having custody of petitioner) <u>THOMAS J. GARROLL ETAL.,</u> | | |
| The Attorney General of the State of <u>DELAWARE</u> <u>M. JANE BRADY</u> | | |

PETITION

SEP 16 2005

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

SUPERIOR COURT KENT AND SUSSEX COUNTIES U.S. DISTRICT COURT DISTRICT OF DELAWARE

(b) Criminal docket or case number (if you know): KENT: ID NO 9802006513; SUSSEX: ID NO. 9809039-34

2. (a) Date of the judgment of conviction (if you know): KENT: 10-26-00 SUSSEX: 9-8-00

(b) Date of sentencing: KENT: 10-26-00 SUSSEX: 9-8-00

3. Length of sentence: KENT: 34 RSJ IV SUSSEX: 64 RSJ IV

4. In this case, were you convicted on more than one count or of more than one crime? Yes ☒ No ☐

5. Identify all crimes of which you were convicted and sentenced in this case: KENT (SEE EXHIBIT A)
SUSSEX (SEE EXHIBIT B)

6. (a) What was your plea? (Check one)

(1) Not guilty ☐

(3) Nolo contendere (no contest) ☐

(2) Guilty ☒

(4) Insanity plea ☐

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? KENT (SEE EXH A)

SUSSEX (SEE EXH B)

(c) If you went to trial, what kind of trial did you have? (Check one) N/A

Jury ☐ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?

Yes ☒ No ☐

* 9. If you did appeal, answer the following:

(a) Name of court: SUPREME COURT OF DELAWARE

(b) Docket or case number (if you know): 147,2001

(c) Result: RE-SENTENCING FOR CREDIT OF 847 11390(d)

(d) Date of result (if you know): (SEE EXHIBIT "C")

(e) Citation to the case (if you know):

(f) Grounds raised: CONT. OBLIG. OF COUNSEL TO PREPARE APPEAL RIGHTS AND CREDIT FOR TIME SERVED IN JAIL OF DEL. 11 DEL.C. §3901(d) AND (e)

(g) Did you seek further review by a higher state court? Yes ☐ No ☒

If yes, answer the following:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Result: _____

(4) Date of result (if you know): _____

(5) Citation to the case (if you know): _____

(6) Grounds raised: _____

(h) Did you file a petition for certiorari in the United States Supreme Court? Yes ☒ No ☐

If yes, answer the following:

(1) Docket or case number (if you know): SEE EXHIBIT "G" (APPLICABLE TO HABEAS ISSUES ONLY)

* THIS INFORMATION IS 'NOT' ISSUE PETITIONER IS BRING BEFORE THIS COURT, BUT, ONLY PROVIDED FOR INFORMATIONAL PURPOSES.

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

Yes ☒ No ☐

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: SUPERIOR COURTS KENT AND SUSSEX ("HABEAS CORPUS")
 (2) Docket or case number (if you know): KENT: 03M-06-010; SUSSEX: 03M-06-001
 (3) Date of filing (if you know): KENT: 6-3-03 SUSSEX: 6-5-03
 (4) Nature of the proceeding: HABEAS CORPUS KENT (EXHIBIT D) SUSSEX (EXHIBIT E)
 (5) Grounds raised: VIOLATION OF 11 DELC. § 2519 AND IMPOSING A HABITUAL OFFENDER STATUS 11 DELC. § 4214(b) TO PETITIONER FOR USAGE OF THE ACT.

- (6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☒

(7) Result: _____

(8) Date of result (if you know): _____

- (b) If you filed any second petition, application, or motion, give the same information: NO

(1) Name of court: NO

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(c) If you filed any third petition, application, or motion, give the same information: NO

(1) Name of court: NO

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes ☒ No ☐ — (SEE EXHIBIT "F") ORDER.

(2) Second petition: Yes ☐ No ☐

(3) Third petition: Yes ☐ No ☐

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: 11 DELAWARE CODE § 2549 PROHIBITS ANY STATE COURT IN IMPOSING HABITUAL OFFENDER STATUS TO ANY
 (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): CONVICTIONS BOTH STATE COURTS IN KENT AND SUSSEX COUNTIES IMPOSED HABITUAL OFFENDER STATUS TO PETITIONER AT SENTENCING IN VIOLATION OF 11 DEL.C. § 2549 AND FEDERAL CRIMINAL EXTRADITION ACT / TREATY LAWS. SUBJECTED TO FEDERAL CONSTRUCTION* (SEE ATTACHED MEMORANDUM OF LAW AS EXHIBIT "H") ATTACHED HERETO THE PETITION

(b) If you did not exhaust your state remedies on Ground One, explain why: N/A

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☒ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: HABEAS CORPUS IN BOTH COUNTIES KENT AND SUSSEX

Name and location of the court where the motion or petition was filed: DOVER, DE (KENT)
GEORGETOWN, DE (SUSSEX)

* U.S. CONST. ART 310 CH. 3 CYLER V. ADAMS 449 U.S. 433, AT 438-442;
 1015 CT. 703 AT 706-708; 603 ED 2d 641 (1981)

Docket or case number (if you know):

KENT (EXH D) SUSSEX (EXH E)

Date of the court's decision:

KENT 6-13-03 SUSSEX 6-19-03

Result (attach a copy of the court's opinion or order, if available):

KENT (EXH D) SUSSEX (EXH E)

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

DELAWARE SUPREME COURT (EXH F) (CONSOLIDATED 383/385, 2003) (EXH F)

Docket or case number (if you know):

383/385 / 2003 (EXH F)

Date of the court's decision:

MANDATE WAS ISSUED JULY 15, 2004 EXHIBIT I

Result (attach a copy of the court's opinion or order, if available):

(EXHIBIT F)(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: N/AGROUND TWO: N/A

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Two, explain why: N/A

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: N/A

(d) **Post-Conviction Proceedings:** N/A

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): N/A

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): N/A

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: N/A

GROUND THREE: N/A

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

N/A

(b) If you did not exhaust your state remedies on Ground Three, explain why: N/A

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: N/A

(d) Post-Conviction Proceedings: N/A

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: N/A

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: _____

GROUND FOUR: N/A

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

N/A

(b) If you did not exhaust your state remedies on Ground Four, explain why: N/A

(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: N/A

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: N/A

Name and location of the court where the motion or petition was filed: N/A

Docket or case number (if you know): N/A

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: N/A

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes ☒ No ☐

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: _____

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: NONE

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. N/A

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. N/A

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: ① DEAN A BETTS ESQ: COFO, DEL. PRIN

(b) At arraignment and plea: ② RUTH MATTHEW SMYTHE ESQ
14 THE CIRCLE 2nd floor COFO, DEL. PRIN

(c) At trial: N/A

(d) At sentencing: RUTH MATTHEW SMYTHE ESQ

(e) On appeal: RUTH MATTHEW SMYTHE ESQ

(f) In any post-conviction proceeding: N/A

(g) On appeal from any ruling against you in a post-conviction proceeding: N/A

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: NA

(b) Give the date the other sentence was imposed: N/A

(c) Give the length of the other sentence: NA

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes ☐ No ☒

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

ON July 15, 2004 my Delaware Supreme Court Appeals in 383/385, 2003 were mandated (EXH I) THERE AFTER ON 9-24-04 I PETITIONED U.S. SUPREME COURT FOR A WRIT 30 EXTENSION OF TIME TO FILE A WRIT OF HABEAS CORPUS AND ASSERTED INTERFERENCE OF ACCESS TO THE COURTS by STATE ACTOR BRIAN ENGLISH (AN ALLEGEDLY) DEC. STU ON OCT 7, 2004 U.S. SUPREME COURT (EXH 6) STATED my mail WAS NOT RECEIVED ON TIME ON 6-30-05 I FOUND OUT THAT STATE ACTORS IMPEDED my legal mail from BEING MAILED TO THE U.S. SUPREME COURT (SEE EXHIBIT J) Thus my BAR SHOULD NOT APPLY NOTWITHSTANDING THIS PETITION WAS FILED WITHIN 1 yr. OF 10-15-05 OF THE 90 DAYS AFTER THE 7-15-04 MANDATE (EXHIBIT I)

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —


(continued...)

* SEE EXHIBIT J-1 AND J-2 AND MOST CURRENT ACTS SEE EXHIBIT J-3 AND J-4 PLAINTIFF HAS OVER 500 GRIEVANCES ON THIS SAME STATE ACTOR WHO HAS DENIED ACCESS SINCE 2-3-05 SEE BRIAN ENGLISH MEMO AT 3-29-05

Therefore, petitioner asks that the Court grant the following relief:

~~REMOVING THE HABITUAL OFFENDER STATUS AND APPLY THE T.I.S. GUIDELINES IN IMPOSING RESENTENCING.~~ ~~RESENTENCE PETITIONER~~

or any other relief to which petitioner may be entitled.

X 
Signature of Attorney (if any) ROSE

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on

9-13-05 (month, date, year).

Executed (signed) on 9-13-05 (date).

X 
Signature of Petitioner
RONALD E. PROCTOR JR

*(...continued)

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition. _____

IN FORMA PAUPERIS DECLARATION

DISTRICT COURT OF CHANDLER

[Insert appropriate court]

SEE ATTACHED EXHIBIT "K" ACCOUNT BALANCES
THAT SHOW I AM UNABLE TO PAY THE \$5.00
FILING FEE

DATED: 9-5-05

X 
RONALD E. GROSE
PETITIONER GROSE

RON PROCTOR JR 163156
1181 PADDOCK RD 17
SMYRNA DE 19977-9679
A45



Clerk *RONTON*
U. S. District Court
J. Caleb Boggs Federal Building
Lock Box 18
844 N. King Street
Wilmington, Delaware 19801

Excel Mail

MAILED 9-13-05